

Current Petition to Suspend Prosecution Filed April 30, 2003

Russell Patton Davis
1521 Quail Point Rd.
Virginia Beach, Virginia 23454
757-729-1079
and
409 Sea Pointe Court, #201
Virginia Beach, Virginia 23451
757-491-0519

Box Patent Petition § 1.103(a) NO FEE
Assistant Commissioner for Patents,
Washington, DC 20231

Dear Assistant Commissioner for Patents,

Please grant a § 1.103(a) six-month suspension of process on application **09/891,757** filed **JUNE 26, 2001** for cause. That, cause can be related to litigation to exposed racketeering activity against my operation in Virginia that has taken the form of §18.2-481(5) felony, also known as statutory treason, were the execution of the law is resisted under the color of its authority. **The USPTO has given cause for this suspension through the actions of Examiner Thomas Price wherein he raises his personal authority as official authority in substitute for duly authorized administrative code and statute.** That being so I may not have reasonable hope of receiving the benefits of law and regulation unless I have acquired the financial and intellectual muscle to enforce my rights under that law and regulation. Whether or not it is individual caprice rather than the influence of a racketeer I will probably never know, and neither does it mater, as either is sufficient cause for this suspension of this application. The objectionable and special treatment of application **09/891,757** by the USPTO has been: 1) the application filed on **JUNE 26, 2001** has not been published as have others of it vintage, 2) examination has been slow, 3) the examiner has expressly raised his personal authority above statute, CFR and MEP in stating that there is no way that he is going to grant such an expansive invention because it is too much work for him; 4) Neither have fees that should have been charged to my account been changed as was both requested and fitting. Of greatest financial harm was the delay in publication as that begins the tolling of royalty by infringers. Given the physical violence against my Virginia operation the publication would also have given me the safety of public visibility which has been denied by the USPTO delay.

An International Application encompassing the **09/891,757** US application has been made. A foreign national application on that unexamined PCT application has also been made so that the racketeer cannot exert his influence at the USPTO to make it is though I and my patent work never were.

Certainly, this petition to the Commissioner of Patents is not so certain of due delivery and

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due answer that this petition is sufficient in itself to win the restoration of this citizen's rights under US patent law and regulation.

Therefore, I have petitioned for a declaratory decree to expose the §18.2-481(5) felony, and civil wrong of Jerry Showalter of the Virginia Marine Resources Commission. When pressed by criminal and civil prosecution Mr. Showalter may finger the racketeer, who is apt to be one of the Commissioners with a ten million dollar per year incentive, such that the racketeer may be separated from his crime.

If I am not able to win a restoration of my rights as citizen I will emigrate to the protection of a non-Virginia Baron who will have both incentive and resource to press the economic benefits of patent vigorously.

In either case, the USPTO may harvest great shame, litigation if it fails to give honorable, and due process to the PCT application and to **09/891,757**.

It is true, that I may fail to win the protection of either law or baron and utterly fail to protect my invention, such that it becomes public domain. In this outcome the USPTO's wrong against me by the deprivation of due process would also be the cause of the greatest harm against the US and its aquaculture and fisheries industries as the world wide affect of a hundred fold increase in hatchery economy would be a catastrophic decline in prices.

The results of the wrong against me and recrimination due those wrongs will increase if I am dispossessed and/or murdered – the discontinuation of my personal interest would only increase the USPTO's exposure in this.

It is best for all if the USPTO discover what is right in this matter and does it with a willing heart.

It is my personal belief and request that it would be best for the USPTO to suspend action on **09/891,757**, accept the PCT application into the US national application process, promptly publish the PCT application, and accept the PCT application as a substitute application and continuation-in-part for **09/891,757** as the literary qualities of **09/891,757** are so bad that it can reasonably be considered sufficiently informal for replacement but not so informal as to lose priority date on the claims. Since much of the invention is without prior art and the field of endeavor has very little patent activity, no one is likely to have a right that might be harmed by this method of stepping forward to heal the USPTO breach in due process on **09/891,757**.

Sincerely,

Russell P Davis

You may view the initial pleading of the Litigation at <http://www.Shellfish->

Unlimited.org/VaDeclaratoryDecree20030227.htm .

5) Petition to Suspend Prosecution Filed Jan 3, 2003

Russell Patton Davis
1521 Quail Point Rd.
Virginia Beach, Virginia 23454
757-729-1079
and
409 Sea Pointe Court, #201
Virginia Beach, Virginia 23451
757-491-0519
February 28, 2003

Certified Mail Repeat of Petition of March 19, 2003

Box Patent Petition § 1.103(a) NO FEE
Assistant Commissioner for Patents,
Washington, DC 20231

Dear Assistant Commissioner for Patents,

Please grant a § 1.103(a) six-month suspension of process on application **09/891,757** filed **JUNE 26, 2001** for cause. That cause can be related to pending litigation to exposed racketeering activity against my operation in Virginia that has taken the form of §18.2-481(5) felony, also known as statutory treason, were the execution of the law is resisted under the color of its authority. The USPTO has given cause for this suspension by giving show through the actions of its staff that I may not have reasonable hope of receiving the benefits of law and regulation unless I have acquired the financial and intellectual muscle to enforce my rights under that law and regulation. I will probably never know whether or not it is individual caprice rather than the influence of a racketeer, and neither does it mater, as either is sufficient cause for this suspension of this application. The objectionable and special treatment of application **09/891,757** by the USPTO has been: 1) the application filed on **JUNE 26, 2001** has not been published as have others of it vintage, 2) examination has been slow, 3) the examiner has expressly raised his personal authority above statute, CFR and MEP in stating that there is no way that he is going to grant such an expansive invention because it is too much work for him; 4) Neither have fees that should have been charged to my account for **09/891,757** been changed as was both requested and fitting. Of greatest financial harm was the delay in publication as that begins the tolling of royalty by infringers. Given the physical violence against my Virginia operation the publication would also have given me the safety of public visibility which has been denied by the USPTO delay.

An International Application encompassing the **09/891,757** US application has been made.

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A foreign national application on that unexamined PCT application is also being made so that the racketeer cannot exert his influence at the USPTO to make it is though I and my patent work never were.

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Therefore, I have prepared a petition for a declaratory decree to expose the §18.2-481(5) felony, and civil wrong of Jerry Showalter of the Virginia Marine Resources Commission. When pressed by criminal and civil prosecution Mr. Showalter may finger the racketeer, who is apt to be one of the Commissioners with a ten million dollar per year incentive, such that the racketeer may be separated from his crime.

If I am not able the win a restoration of my rights as citizen I will emigrate to the protection of a non-Virginia Baron who will have both incentive and resource to press the economic benefits of patent vigorously.

In either case the USPTO may harvest great shame and litigation if it fails to give honorable and due process to the PCT application and to 09/891,757 .

It is true, that I may fail to win the protection of either law or baron and utterly fail to protect my invention, such that it becomes public domain. In this outcome the USPTO's wrong against me by the deprivation of due process would also be the cause of the greatest harm against the US and its aquaculture and fisheries industries as the world wide affect of a rapid hundred fold increase in hatchery economy would be a catastrophic decline in prices.

The results of the wrong against me and recrimination due those wrongs will increase if I am dispossessed and/or murdered as that will precipitated mass bankruptcy in the industry due to unmoderated adoption of revolutionary technology – the discontinuation of my personal interest would only increase USPTO's exposure in its wrongs against due process of the law.

It is best for all if the USPTO discover what is right in this matter and does it with a willing heart.

It is my personal belief and request is that it would be best for the USPTO to suspend action on 09/891,757, accept the PCT application into the US national application process and promptly publish the PCT application as a substitute application and continuation-in-part for 09/891,757 as the literary qualities of 09/891,757 are so bad that it can reasonably be considered sufficiently informal for substitution but not so informal as to lose priority date on the claims. Since much of the invention is without prior art and the field of endeavor has very little patent activity no one is likely to have a right that that might be harmed by this method of stepping forward to heal the USPTO breach in due process on 09/891,757.

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It also seems that two charges of about \$1800 have been made against the PCT application. There should be one initial charge of \$1800 for the Jan 26, 2003 application and possibly some additional charge to pay for the expanded page count needed to meet formatting requirements as in the amendment filed Feb 10, 2003. Please credit my account with what balance is due. Please debit my account as need to bring the PCT application national as a substitute and continuation in part **09/891,757** if that seems a fitting remedy to you at this time.

Sincerely,

Russell P Davis

You may preview the initial pleading at <http://www.shellfish-unlimited.org/VaDeclaratoryDecree2003.htm> .

4) Correspondence filed January 3, 2003, To Examiner Mr. Tom Price:

The complete application 09/891,757 is enclosed with a complete replacement of the claims.

I have not heard anything from you regarding my requests of extension of time. If there is some perceived impediment there I would like to bring your attention to 37 CFR 1.136(a)(3) and the prior PTO-2038 with blanket authorizations to charge.

I would also ask you to consider PCT MEP Chapter V131(i) with instruction regarding the "Unity of Invention". It might be simpler and better if the claims under this application (where the linkage to Claim 0 is completed) where resubmitted without Link to Claim 0.

It may also be that the enclosed PCT application that incorporates this unpublished application should be submitted as a "Continuation-In-Part". The quality of writing is much advanced which can make your job easier. You could allow a substitution of disclosure if you found the original to be somewhat informal. Also, under that scenario you could use the search made under the PCT application and your labor would consist mostly of assigning priority dates to claims. Would this please you, Sir?

Respectfully,

Russell P Davis

3) Faulty Correspondence Dec 2, 2002, Mr. Tom Price: Mr. Tom Price: In response to the restriction requirement of 08/26/2003 #3807 and #####, the Applicant provisionally elects to traverse the restriction requirement by amending the claims by completely replacing the claims section of the application such that claim 40 is elected and claims 1 through 39 are restated as dependant claims. Claims 1 through 39 also link in CLAIM 40.

Given due deference to PTO examination rules contained in MPEP 808.01, the first 39 claims in this invention cannot be subject to restriction requirement and divisional patent as the claimed features of the invented integrated system are not independent inventions but are connected by "*design, operation, and effect*". There is only one art unit to examine this patent application. Making a restriction requirement based upon the number of coherent benefits claimed is like prohibiting a patent because the invention offers too great an advance in utility to its industry. Certainly, ludism has not been authorized by patent law. Moreover, the examination research required is not a suitable basis for restriction as there is very little or no prior art to research on many of the claimed features. A query of prior patents in shellfish culture will have a very small result set compared to the search of most other industries.

The original disclosures are also hard to read and full of grammatical errors. Please accept this replacement of that section of the application. If that is not possible, I understand. Even so the reading of the predassesor may be less jarring to your senses after reading the included subsequent. The double spacing of the subsequent can also give you space for your notes. Optical character reading software can aid your identification of any material difference in disclosure. There is a follow-on patent of enhancements under PCT in the works that may restate these disclosures in more readable prose. If there has been no competing patent filed in the area of shellfish culture in the interim there would certainly be no harm in allowing higher quality writing into the Patent record. It may also be that disclosures amendments that do produce additional claims could be allowed. If such is the case the literary qualities of the disclosure could be substantially enhanced.

If this response is deemed non-responsive please grant an additional month to respond. Please bill as needed according to meet the required fees. Forms PTO-2038 & PTO/SB17 are enclosed.

2) Correspondence Sept 16, 2002 Mr. Tom Price: In response to the restriction requirement of 08/26/2003 #3807, the Applicant provisionally elects group IX in claim 9 with traverse via the following discourse and amendment with the additional Generic & Linking Claim 0 to be inserted at the beginning of the Claims section near page 73.

Given due deference to PTO examination rules contained in MPEP 808.01, the other 39 claims in this invention cannot be subject to restriction requirement and divisional patent as the claimed features of the invented integrated system are not independent inventions but are connected by "*design, operation, and effect*". There is only one art unit to examine this patent application. Making a restriction requirement based upon the number of coherent benefits claimed is like prohibiting a patent because the invention offers too great an advance in utility to its industry. Certainly, ludism has not been authorized by patent law. Moreover, the examination research required is not a suitable basis for restriction as there is very little or no prior art to research on many of the claimed features. A query of prior patents in shellfish culture will have a very small result set compared to the search of most other industries.

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Claims 1 through 39 are also link in CLAIM 0.

If this response is deemed non-responsive please grant an additional month to respond.
Please bill as needed according to meet the required fees. Forms PTO-2038 & PTO/SB17 are enclosed.

1) Correspondence December 15, 2001

Office of Initial Patent Examination Customer Service Center
United States Patent and Trademark Office
Washington, DC 20231

Re: Noted error on Filing receipt "Notice to File Missing Parts"

Dear PTO,

Please find enclosed a letter from the PTO requesting replacement oath, drawings, amendment, and an additional fee of \$120.

I will address the "Notice of Missing Parts" in the order that it raises the issues:

1) Total additional claim fee(s) of this application is \$120. \$120 for independent claims over 3"**

The \$120 payment is enclosed as I would not suffer a rejection by the PTO for that amount, but I cannot derive a method by which the fee was calculated. There is a \$120 fee for a late oath but that oath has been on the first and last page of every application you have received for me.

2) "A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date is required" The Application could have no application number until the PTO assign it so obviously I could not note it on the applications Oath but the PTO certainly could. PTO form SB01 has been included for your convenience. The signed oath has been on the first (and probably the last) page of every application you have received for me.

3)"Substitute Drawings in compliance with 37 CFR 1.84 because: drawing sheets do not have the appropriate margins. Each sheet must include a top margin of at least 1 inch, a left side margin of at least 1 inch, a right side margin of at least 5/8 inch, and a bottom margin of at least 3/8 inch" Perhaps the PTO reviewed the uncorrected drawings submitted on 9/16/2001. To my measure all drawings were in margin compliance as of that submission. The whole application is enclosed that no mix-up need occur again.

4) "Substitute Drawings in compliance with 37 CFR 1.84 because: drawings contain excessive text. Suitable descriptive legends may be used, or may be required by the Examiner where necessary for understanding of the drawing but should contain as few words as possible." I edited the bitmap drawings to remove any redundant or inappropriate legend that I could find , yet I am sill at a lose as to how I should meet your criteria as it seems very subjective – I beg you not to tear the fruits of my labor from me on this issue – you may do this and there is nothing I can do about it except beg. Yes, the descriptive legend I have applied to the drawing is more descriptive than nominal. I have made several attempts to pair the verbiage but each cut has made the drawings much less than revealing. The methods employed by these devices are generally so devoid of prior art that the drawing seem undecipherable without a relatively rich legend. Surely, the application would be weaker if the legend were made nominal. Please accept these drawings.

5) "Fig 13 described in the specification . . . has been omitted." I did that intentionally is the claims supported by that drawing were not worth the cost of claiming and completing the drawing – so I removed the drawing. At your request I have removed the all references to that drawing, renumbered the drawings, and edited the references to match the new drawing numbers as is required by option "III" of the PTO's attached letter.

The sanitized application is enclose along with a check for \$120 (which my children will sorely miss)

Thank you,

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